



March 21, 2012
Agenda
9:30 A.M. Business Meeting
Valencia County Commission Chambers
444 Luna Avenue
Los Lunas, NM 87031

Board of County Commissioners
Donald E Holliday, Chair District V
Georgia Otero-Kirkham, Vice-Chair District II
Mary Andersen District I
Lawrence R. Romero District III
Ron Gentry District IV

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda
- 4) Approval of Minutes: None at this time

*Approved telephonically
by Georgia Otero-Kirkham
3/15/12*

PRESENTATION(S)

- 5) Quarterly Report – Extension Service: Kyle Tator
- 6) Finance

DISCUSSION (Non-Action) ITEM(S)

- 7) Reports from Manager, Commissions, Boards & Committees

ACTION ITEM(S)

- 8) Pre / Post Prom Sober Activity: **County Commission**
- 9) Consideration of Ordinance 2012-___ Restricting Through Truck Traffic on South Rio del Oro Road, East of Manzano Expressway to Valencia High School: **Commission Ron Gentry**
- 10) Consideration of Resolution 2012-___ to adopt 2012 Annual Certified Road Inventory: **Eric Zamora**
- 11) Consideration of Public Railroad Crossing Construction and Maintenance Agreement for Calle de Oro – **Eric Zamora**
- 12) Consideration to use the name TOLER DR within Valencia County: **Ruben Chavez**
- 13) Consideration of an amendment to the Grant Agreement for the purpose of increasing the funding contribution by AAA to the Older American Program – Contract # 2011-12 60028: **Ruben Chavez**

FINANCIAL MATTERS:

- 14) Consideration of Budget Resolution 2012-___: **Christina Card**
- 15) Consideration of Approval: Payroll / Warrants: **Christina Card**

PUBLIC COMMENT:

Please sign up on the sheet located just outside the Commission chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission

EXECUTIVE SESSION:

Pursuant to Section 10-15 1 (H) (2) (7) & (8), the following matters may be discussed in closed session: a. personnel County Manager; b. pending or threatened litigation FOP vs. Valencia County Arbitration c. real property; d. other specific limited topics that are allowed or authorized under the stated statute.

- ◆ Motion and roll call vote to go into Executive Session for the stated reasons
- ◆ Board meets in closed session
- ◆ Motion and vote to go back into regular session
- ◆ Summary of items discussed in closed session
- ◆ Motion and roll call vote that matters discussed in closed session were limited to those specified in motion for closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

ACTION ITEMS FROM EXECUTIVE SESSION:

- a) County Manager
- b) FOP vs. Valencia County Arbitration

NEXT COMMISSION MEETING:

- ◆ **April 4, 2012 – Business Meeting @ 9:30 A.M.**
Valencia County Commission Board Room 444 Luna Ave. LL, NM

ADJOURN:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: Youth Development Inc-Valencia Division
Individual Making Request: Ambar Chavez, Prevention Specialist
Presentation at Meeting on: March 21, 2012
Date Submitted: March 13, 2012
Title of Request: Pre/Post Prom Sober Youth Activities

Action Requested of Commission:

Sponsorship of the Pre/Post Prom Sober Activities

Information Background and Rationale:

Post Prom Sober Event

YDI and the Village of Los Lunas, with the help of our community partners, have hosted a yearly underage drinking prevention campaign with the local high schools to raise awareness, educate and provide alternative **sober** activities for the parents, youth and families of our county. These events have been a huge success in the past and many students have made the safe choice to spend the night following prom at the theater.

This year (3) High Schools would like to take part in this great tradition—Valencia High School on April 21, 2012 and both Belen and Los Lunas High Schools on April 28, 2012. The accumulative cost of the Pre/Post Prom Sober events is approximately \$4000 per high school (\$12,000) As of this year we will also be including Century and The School of Dreams Academy.

YDI in collaboration with the DWI Prevention/Enforcement Program for the Village of Los Lunas/Valencia County, along with other community partners, are working to raise all the funds necessary in the attempt to have all the expenses covered for our youth to continue in this beneficial and community enriching tradition.

What is the Financial Impact of this Request?

\$1000

Staff Comments:

Legal:

The money may lawfully be provided to the DWI prevention program so that the County may participate in the Pre/Post Prom Sober events. Only in very limited instances may the County make donations directly to non-profit corporations, as is YDI, Inc., and not run afoul of the Anti-Donation clause in the New Mexico Constitution. Particularly, Article 9, Section 14 of the New Mexico Constitution provides, in pertinent part, that "[n]either the state nor any county . . .

except as otherwise provided in this constitution, shall directly or indirectly . . . make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad except as provided in Subsections A through F of this section." The proposed use does not fall within one of the limited exceptions detailed in subsections A through F of this Constitutional provision. However, it does not violate

the anti-donation clause to give money to another government institution. See, e.g., City of Gallup v. New Mexico State Park and Recreation Commission, 86 N.M. 745, 527 P.2d 786 (1974) (explaining that the Constitutional provision that state or municipality shall not make any donation to association or public corporation is inapplicable to donations by state or one of its governmental agencies to another such agency). As the DWI prevention program is a state government program, the giving of money to the DWI prevention program does not violate the anti-donation clause. D.P.

Finance:

Funding Available through general fund. CC

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: County Commission

Individual Making Request: Commissioner Ron Gentry

Presentation at Meeting on: March 21, 2012

Date Submitted: March 15, 2012

Title of Request: Consideration of Ordinance 2012-____; Restricting Truck Traffic on South Rio del Oro

Action Requested of Commission:

Consideration of Ordinance 2012-____; Restricting Truck Traffic on South Rio del Oro

Information Background and Rationale:

This request was initiated by the residents of the Las Maravillas community to address air quality and safety concerns associate with heavy truck traffic accessing the gravel pit east of the community.

What is the Financial Impact of this Request?

n/a

Staff Comments:

Legal:

Prepared as requested. D.P.

Finance:

No financial impact. C.C.

VALENCIA COUNTY, NEW MEXICO

POST OFFICE BOX 1119

444 LUNA AVENUE

LOS LUNAS, NEW MEXICO 87031



VALENCIA COUNTY ORDINANCE

ORDINANCE 2012-____

An Ordinance

**Restricting Through Truck Traffic on South Rio del Oro Road, East
of Manzano Expressway to Valencia High School**

in Valencia County

Adopted by the Board of County Commissioners

On _____

Effective on _____

ORDINANCE No. 2012-_____

**ORDINANCE RESTRICTING THROUGH TRUCK TRAFFIC ON
SOUTH RIO DEL ORO ROAD, EAST OF MANZANO EXPRESSWAY
TO VALENCIA HIGH SCHOOL IN VALENCIA COUNTY**

PREAMBLE

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, the Board of County Commissioners of the County of Valencia has determined that the health, safety and general welfare of the residents of Valencia County would best be served by the adoption of an Ordinance restricting through truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County.

NOW THEREFORE, BE IT ORDAINED that the Board of County Commissioners of the County of Valencia adopts an Ordinance restricting through truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County, as follows:

ARTICLE I. FINDINGS AND INTENT.

The Board of County Commissioners of Valencia County finds that truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County poses a significant risk to the health and safety of inhabitants of Valencia County. The Board of County Commissioners of Valencia County further finds that the truck traffic along this road constitutes a nuisance, producing vibrations, dust, and inflicts substantial damage upon the road. The Board of County Commissioners of Valencia County further finds that this Ordinance is remedial in nature, and designed to protect occupants of Valencia County. The Board of County Commissioners of Valencia County further finds this Ordinance to be the most narrowly tailored means of furthering compelling governmental interests. This Ordinance conforms to the Opinion entered by the New Mexico Court of Appeals on May 18, 2006, in *American Civil Liberties Union of New Mexico* and *John Does 1-4 v. City of Albuquerque*, 2006-NMCA-078, 139 N.M. 761, 137 P.3d 1215.

ARTICLE II. SHORT TITLE.

This Ordinance shall be referred to as the "South Rio Del Oro Road Truck Traffic Restriction Ordinance."

ARTICLE III. DEFINITIONS.

For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED EMERGENCY VEHICLE means any fire department vehicle, police vehicle, ambulance and any emergency vehicles operated by the State of New Mexico, a municipality or County or operated by a public utility.

GROSS VEHICLE WEIGHT means the weight of a vehicle inclusive of any load.

SCHOOL BUS means any motor vehicle operating under the authority of a Board of Education or private or parochial school interests that is used to transport children, students or teachers to or from schools or to and from any school activity, but not including any vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of pupils;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission but is not used exclusively for the transportation of pupils; or

(3) operated as a per capita feeder as defined in NMSA 1978, Section 22-16-6.

TRUCK means every motor vehicle designed, used or maintained primarily for the transportation of property.

TRAILER means any vehicle, without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle.

SOLID WASTE TRUCK means any vehicle specifically designed to collect and transport solid waste or recyclables.

ARTICLE IV. GENERAL PROVISION AND OFFENSE.

Restricted Traffic.

A. Trucks and Truck Trailers, with a gross vehicle weight of five (5) tons or more, are prohibited from using South Rio Del Oro Road, east of Manzano Expressway to Valencia High School.

B. This Ordinance shall not apply to travel of a solid waste truck or truck trailer which is delivering to a local resident.

C. This Ordinance shall not apply to authorized emergency vehicles, government or utility vehicles, service and transportation vehicles, and school buses.

ARTICLE V. OBLIGATIONS OF VALENCIA COUNTY

A. The Valencia County Public Works Department shall forward a copy of this Ordinance to the New Mexico State Motor Transportation Division of the Department of Public Safety.

B. The Valencia County Public Works Department shall install weight limitation signs appropriately and conspicuously on the affected portion of South Rio Del Oro Road.

ARTICLE VI. ENFORCEMENT.

Enforcing Entity. The Valencia County Sheriff's Department (hereafter, "Sheriff's Department") or any duly authorized and commissioned law enforcement officer shall enforce the provisions of this Ordinance.

ARTICLE VII. IMMUNITY.

Nothing in this Ordinance creates a cause of action against the Board of County Commissioners of the County of Valencia not already authorized under existing law. Without limitation, the Board of County Commissioners of the County of Valencia is not liable to any person harmed who claims that enforcement of this Ordinance may have prevented the harm.

ARTICLE VIII. PENALTY.

Any person who violates any provision of this Ordinance shall, upon conviction, be subject to a fine not exceeding \$300 or by imprisonment not exceeding 90 days or both. The Board of County Commissioners of the County of Valencia is also entitled to injunctive relief to enforce the provisions of this Ordinance.

ARTICLE IX. SAVINGS CLAUSE.

If any article, section paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

PASSED, APPROVED AND ADOPTED on this _____ day of _____, 2012.

BOARD OF COMMISSIONERS OF VALENCIA COUNTY

Donald E. Holliday
Chair, District V

Georgia Otero-Kirkham
Vice-Chair, District II

Mary J. Andersen
Commissioner, District I

Lawrence R. Romero
Commissioner, District III

Ron Gentry
Commissioner, District IV

APPROVED AS TO FORM:

ATTEST BY:

Adren R. Nance, County Attorney

Sally Perea, County Clerk

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: Eric Zamora

Individual Making Request: Lina Benavidez

Presentation at Meeting on: March 21, 2012

Date Submitted: February 27, 2012

Title of Request: Resolution 2012-___ to adopt 2012 Annual Certified Road Inventory

Action Requested of Commission:

Consideration of 2012 Annual Certified Road Mileage

Information Background and Rationale:

Every year the County prepares their road inventory and mileage to submit to NMDOT which shows roads that are county maintained and which road have been improved throughout the year. The inventory gives a summary of Asphalt, Chip Seal, Gravel and Dirt for the County as a whole as well as per commission district.

What is the Financial Impact of this Request?

Reporting is required in order to receive funding.

Staff Comments:

Legal:

Approved A.N.

Finance:

CC

**Valencia County
Board of County Commission
Resolution 2012- ____**

**A RESOLUTION
ADOPTING THE 2012 ANNUAL CERTIFIED MAINTAINED
MILEAGE REPORT**

WHEREAS, the Board of County Commissioners (BoCC) acted in its regularly scheduled meeting on March 21, 2012, to adopt the 2012 Annual Certified County Maintained Mileage Report for 2012; and desires the State Department of Transportation (NMDOT) to accept same; and

WHEREAS, pursuant to NMSA 1978, section 66-6-23 (2003), the BoCC shall certify and submit an Annual Certified County Maintained Mileage Report to the Secretary of the Department of Transportation, on or before April 1st of each year; and

WHEREAS, the mileage verified by the Secretary of NMDOT shall be the official mileage of public roads maintained by each county and reported to the NM State Treasure's Office for funding distribution purposes;

WHEREAS, the BoCC has, in 2011, reevaluated and continues to reassess its road inventory.

NOW THEREFORE, BE IT RESOLVED, by the governing body of Valencia County that:

1. the 2012 Annual Certified County Maintained Mileage Report is an accurate reflection of County maintained roads for 2012;
2. the County submits the attached Report to the Secretary of the NMDOT in meeting its obligation pursuant to statutory requirements

PASSED, APPROVED AND ADOPTED on this 21st day of March, 2012

Donald E. Holliday, Chair

Georgia Otero-Kirkham, Vice Chair

Mary J. Andersen, Commissioner

Lawrence Romero, Commissioner

Ron Gentry, Commissioner

Attest:

Sally Perea, County Clerk

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: Eric Zamora
Individual Making Request: Eric Zamora
Presentation at Meeting on: March 21, 2012
Date Submitted: March 14, 2012
Title of Request: Public Railroad Crossing Agreement

Action Requested of Commission:

Consideration of Public Railroad Crossing Construction and Maintenance Agreement for Calle de Oro.

Information Background and Rationale:

NMDOT Rail Section has determined that the Calle de Oro crossing is unlicensed and therefore eligible for closure, according to State regulations. By entering into this agreement and providing minor upgrades to the road surface, the residents in the area will be insured of ingress/egress. NMDOT Rail Section has committed to working with the County to obtain Section 130 monies to provide for upgrades to the crossing arms and crossing "pads".

What is the Financial Impact of this Request?

Will require county road improvements such as paving and widening as well as routine maintenance and signage. Initial estimate of \$15,000.

Staff Comments:

Legal: NMDOT has adopted the great majority of the County's proposed revisions to the agreement. Most importantly from my perspective, the NMDOT has agreed to the removal of the extensive hold harmless provisions whereby NMDOT sought for the County to agree to indemnify NMDOT, even if such liability arose from or was to be attributed to, in whole or in part, any negligence of the County. Particularly, NMDOT removed the provision requiring that the County agree to release, indemnify, defend and hold harmless NMDOT and NMDOT's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, employees and agents (collectively, "Indemnitees") for from and against any and all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments and expenses (including, without limitation, court costs, attorney's fees and costs of investigation, removal and remediation, environmental or otherwise of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to, resulting from or related to (in whole or in part) this Agreement, including, without limitation, its environmental provisions, any rights or interests granted pursuant to this Agreement, the County's occupation and use of the Premises, the environmental condition and status of the Premises caused by or contributed by the County, and any act or omission of the County or its officers, agents, invitees, employees, or contractors or anyone directly or indirectly employed by an of them or over anyone who we control or exercise control, recognizing instead that neither

party would be responsible for liability incurred as a result of any other's acts or omissions, and only then subject to the immunities and limitations in the Tort Claims Act. Additionally, the NMDOT was amenable to the removal of the provision whereby the County waive all claims with respect to the Premises for the purpose of CERCLA and other environmental laws, again regardless of the NMDOT's negligence. NMDOT was further acceptable to the removal of the requirement that would have had the County indemnify, and hold harmless the NMDOT against and assume the defense of any liabilities asserted against or suffered under or related to the Federal Employers' Liability Act ("FELA") whenever employees of Licensee or any of its agents, invitees, or contractors claim or allege that they are employees of any NMDOT or otherwise, which indemnity would have extends to FELA claims based on actual or alleged violations of any federal, state, or local laws or regulations, including but not limited to the Safety Appliance Act, the Boiler Inspection Act, The Occupational Health and Safety Act, the Resource Conservation and Recovery Act, and any similar state or federal statute. Moreover, the NMDOT agreed to the removal of the provision requiring that the County assume the defense of any lawsuit or other proceeding brought against any Indemnities by any entity, relating to any matter covered by this Agreement for which Licensee has obligation to assume liability for and/or save and hold harmless any Indemnities, and that the County pay all costs incident to such defense, including, but not limited to, attorney's fees, investigator's fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments upon written notice from NMDOT. Finally, the NMDOT agreed to the removal of the requirement that the County waive any and all warranties, law or in equity, including without limitation any warranty of merchantability, habitability or fitness for a particular purpose, even as it relates to the title to the property, though they have made plain in this Agreement that they continue to make no warranty as to the title of the property, nor will they defend the County if an action were to arise in relation to the title of the property. They will, however, require that the County report any conditions or activities that create a risk of harm to persons, property, or the environment, to take all such actions to remediate such risks, and to assume liability for injuries occasioned by virtue of the County's failure to mitigate against such harm. NMDOT will require that our subcontractors provide and maintain insurance coverage naming DOT as an additional insured and that our subcontractors agree to release, defend, and indemnify the NMDOT and the Railway. Provided we include in our contracts with our contractors that they are required to provide and maintain insurance coverage naming DOT as an additional insured and that our subcontractors agree to release, defend, and indemnify the NMDOT and the Railway, this requirement should not pose an issue. D.P.

Finance:

Monies available for improvement in road fund budget. CC

NEW MEXICO DEPARTMENT OF TRANSPORTATION

PUBLIC RAILROAD CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

THIS AGREEMENT is hereby made this _____ day of _____, 20 _____, by and between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (hereinafter "NMDOT"), the **County of Valencia, New Mexico** (hereinafter "County");

WITNESSETH:

WHEREAS, the County agrees to assume responsibility of an existing private road known as Calle De Oro from the point of intersection with NM 314, east over an existing railroad crossing across the NMDOT-owned railroad track to the eastern boundary of the NMDOT railroad right-of-way, and from the easterly NMDOT railroad right-of-way to the east, thereby converting the existing railroad crossing ("Crossing") from a private crossing to a public crossing.

WHEREAS, Upon becoming a public crossing, the County proposes to upgrade Crossing by constructing a crossing to public standards, having a concrete surface width of 32 feet, 0 inches across railroad track and property owned by NMDOT ("Premises") and operated by Rio Metro Regional Transit District (hereinafter "Railway") as the New Mexico Rail Runner Express. The Crossing, consisting of track and material between the rails and two feet outside of and parallel to the rails of the track, crossbuck signs, flashing lights and gates, is designated as USDOT Crossing No. 019467H, at Railroad Mile Post 926.40.

WHEREAS, County agrees to assume responsibility of the Crossing as it currently exists and agrees to have the Crossing upgraded to suitable public standards at County's expense.

WHEREAS, the Railway, through its maintenance and operations contractor ("Maintenance and Operations Contractor") is responsible for maintenance of NMDOT's NMRX railroad Albuquerque Subdivision Right of Way and Track on NMDOT's behalf between MP 932.4 at Belen and MP 834.0 at Lamy including the Crossing, until such time, if any, that said responsibility is reassigned; and

WHEREAS, the County shall maintain the proposed public road leading to and from the Crossing; and

WHEREAS, The term "Project" as used in this agreement shall include all work of every kind and character required in connection with the construction of the proposed public roadway Crossing, as shown on the attached Exhibit 'A' (site drawing) and Exhibit 'B' (standards and plans).

WHEREAS, the County and NMDOT desire to express in writing their understanding and agreement with respect to the Project and Crossing, and pursuant to which it is to be constructed and maintained.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the construction, maintenance and operation of the Project and Crossing on the following terms and conditions:

1. NMDOT, as owner of the railroad right of way and track, does hereby grant to the County, their successors and assigns, upon and subject to the terms and conditions hereinafter set forth, permission and license ("License")(License and Agreement shall be used interchangeably in this Agreement), to enter upon and use that portion of the railroad right of way, (hereinafter "Premises"), as is necessary to construct at its sole expense, the roadway approaches to match the reconstructed Crossing as provided by the plans and standards as shown in Exhibit 'B' attached hereto, and which reference is hereby made a part hereof, excepting and reserving the rights to be exercised by NMDOT and by any others who have obtained , or may obtain permission or authority from NMDOT as set forth in elsewhere this Agreement. After the reconstruction of the Crossing and roadway the County shall have permission to use the Crossing and maintain the roadway approaches as provided by this Agreement. This license and permission is subject to:
 - A. All licenses, leases, easements, restrictions, reservations, conditions, covenants, encumbrances, rights and rights of way, liens and claims of title which may in any manner affect said right of way.
 - B. The prior and continuing right of obligation of Railway, its successors and assigns to use in the performance of its public duty responsibilities.
 - C. This License and permission is given without warranty of title of any kind, special or general, expressed or implied, and no covenant of warranty of title shall be implied from the use of any word or words herein contained. In case of the eviction of County by anyone owning or claiming title to or any interest in said right of way, NMDOT and Railway shall not be liable to County for any damage of any nature whatsoever.

2. Railway, shall, at the County's expense, perform track preparation and installation of concrete surface crossing material to create Crossing in width of 32 feet 0 inches, including relocating any existing signs, gates and flashing lights to accommodate width of crossing, according to plans and estimates as shown on attached Exhibit "B".
3. County, or County's Contractor, at County's expense, will construct road approaches to match the reconstructed track and grade crossing prepared by Railway. Furthermore, County or County's contractor will, at County's expense, provide all necessary traffic control devices, such as flasher lights, barricades and delineators as may be necessary for duration of Project.
4. County, or County's contractor, shall perform its work so that it shall not endanger or interfere with the safe and timely operation of Railway trains and NMDOT track. No work shall be performed within 25' of track centerline without flagging protection being provided by Railway.
5. The work specified to be done in above paragraph 2 by the Railway shall be done as soon as practicable, considering availability of materials and manpower, within one year from the executed date of this agreement, and, in consideration thereof, the County will pay the actual total cost of the work, specified in Paragraph 2.
6. The County shall, at its expense, maintain the roadway surface, approaches, drainage and signage up to edge of the Crossing. No work shall be performed within 25' of track centerline without flagging protection being provided by Railway.
7. The Railway shall, at County's expense, maintain that portion of the Crossing lying between the rails of the track and two feet outside of and parallel to the rails of the track, cross buck sign assemblies, flashing lights, gates, and whistle post signs.
8. The Crossing shall be maintained to standards as required by NMDOT and by local, state, and federal laws.
9. The Railway will submit to the County progressive billings for the costs of flagman protection.
10. The County agrees to make any and all arrangements that may be necessary to secure the location or relocation of wire lines, pipelines, and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than Railway which it may be found necessary to locate or relocate in any manner whatsoever due to the construction of said Project.
11. Except as hereinafter otherwise provided, all work to be done hereunder by County in the construction of Project or maintenance in connection with Crossing shall be

performed in a good and workmanlike manner and in accordance with plans and specifications approved by NMDOT and only those changes or modifications during construction that affect NMDOT shall also be subject to approval by NMDOT, and that all work performed over, under or adjacent to the tracks of NMDOT shall be done to the satisfaction of NMDOT.

12. The County shall not disturb any improvements of NMDOT or NMDOT's existing lessees, licensees, permittees, or other easement beneficiaries, if any, or interfere with the use of such improvements.
13. The County acknowledges that one or more other parties, including, but not limited to various Native American Tribal entities, may have, or may claim to have, ownership right(s) in certain segments(s) of certain of NMDOT's rail corridors and may claim that the County must obtain rights from it (or them) in order to occupy, or access, the Premises and that, in some cases, such claims may be valid.
14. The County acknowledges that NMDOT's ownership interest, in many of its rail corridors, is a determinable fee, a railroad right of way, or a rail service easement, which shall terminate when those rail corridors cease to be used for railroad purposes; or such rail corridors are used for purposes to be found inconsistent with use of the corridors for railroad purposes, and that , in such circumstances, NMDOT's right or license in /to any such rail corridor, or rights under any license of any such rail corridor, may be subject to termination as of the date of the circumstances set forth above.
15. The County is free to improve the quality of title to the Premises by obtaining a patent or deed from the federal government, if appropriate, or acquiring additional property interests from third parties.
16. The County also acknowledges that NMDOT's ownership rights may terminate for other reasons, such as termination of franchise rights, and that certain segments of NMDOT's rail corridors consist only of a trackage rights license to NMDOT and enable NMDOT to provide rail service, or shared ownership with other railroads, and that NMDOT may not have rights to include those segments in any License to the County.
17. The County further acknowledges that the County's rights to enter under the license on any NMDOT rail corridor, and its rights under any License of any NMDOT rail corridor, are subject and subordinate to all outstanding and/or future rights and encumbrances on NMDOT's rail corridor (including liens, security interests, and mortgages), and any and all easements, other leases, licenses, permits or agreements which now or in the future relate to NMDOT's rail corridor, except NMDOT in the future shall not place any encumbrance upon any NMDOT rail corridor then subject to a License to the County or enter into any easement, lease,

license, permit or agreement, which would materially disrupt the County's ability to exercise rights under this License or to utilize the Crossing and Premises covered by such License.

18. The County acknowledges that its ability to exercise rights under this License or to utilize such Crossing would not be materially disrupted if either the Crossing is relocated to another location within the applicable NMDOT rail corridor in accordance with the terms of the License, or could be relocated elsewhere in the rail corridor; or NMDOT preserves Crossing rights and makes those rights available to the County at no charge payable by the County to the holder of the land interest where such rights are located.
19. NMDOT conveys, to the County, no more right, title and interest in any rail corridor than NMDOT holds in such rail corridor at the time of conveyance.
20. The County shall use the Premises solely for construction and maintenance of said Crossing and the County shall not use the premises for any other purpose.
21. The County shall not use or store hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") or petroleum or oil as defined by applicable Environmental Laws on the Premises.
22. In case of the eviction of the County by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by NMDOT of the affected rail corridor, NMDOT shall not be liable to refund, to the County, any compensation paid hereunder.
23. Any contractor(s) or subcontractor(s) performing work on the Project or the Crossing or entering the Premises on behalf of the County shall be deemed servants and agents of the County for the limited purposes of this License only.

COMPENSATION

24. NMDOT waives the railroad crossing application fee sum of Two-Hundred Dollars and NO/100 Cents (\$200.00) and the annual railroad crossing license fee sum of One-Hundred Dollars and NO/100 Cents (\$100.00) since the applicant is a public entity.

COMPLIANCE WITH LAWS

25. The County shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent

jurisdiction ("Legal Requirements") relating to the construction, maintenance, and use of the Project and the Crossing and the use of the Premises.

26. Prior to entering the Premises, the County shall, and shall cause its contractor to, comply with all applicable safety rules and regulations. Prior to commencing any work on the Premises, the County shall complete and shall require its contractor(s) to complete the safety-training program at the following Internet Website <http://www.contractororientation.com> or through Railway. This training must be completed no more than one year in advance of the County's entry on the Premises.

DEFINITION OF COST AND EXPENSE

27. For the purpose of this License, "cost" or "costs" "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.

RIGHT OF NMDOT TO USE

28. NMDOT excepts and reserves the right, to be exercised by NMDOT, and any other parties who may obtain written permission or authority from NMDOT, to:
- A. maintain, renew, use, operate, change, modify and relocate any existing power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises; or
 - B. construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or
 - C. Use the Crossing and Premises in any manner as the NMDOT in its sole discretion deems appropriate, provided NMDOT uses all commercially reasonable efforts to avoid material interference with the use of the Crossing and Premises by the County for the purpose specified herein.

COUNTY OPERATIONS

29. The County shall notify NMDOT's Rail Manager, New Mexico Department of Transportation; PO Box 1149; 1120 Cerrillos Road; SB-4 Second Floor; Santa Fe, NM 87504; at least five (5) business days prior to any work or maintenance performed on the Premises. NMDOT shall issue a work permit for any construction or modification on the Premises.
30. The County shall obtain flagging protection from Railway operations manager at least five (5) business days prior to any work or maintenance performed on the Premises within 25 feet of track.

31. In performing the work described herein, the County shall use only public roadways to cross from one side of the track to the other.
32. Under no conditions shall the County be permitted to conduct any tests, investigations, or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools, or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless the County has obtained prior written approval from NMDOT. The County shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not, at any time, to be a source of danger to or interfere with the existence or use of present or future track, roadbed or property of NMDOT, or the safe operations and activities of NMDOT and the Railway, its partners, contractors, or assigns. If ordered to cease using the Premises at any time by NMDOT's personnel due to any hazardous condition, the County shall immediately do so.
33. Notwithstanding the foregoing right of NMDOT, the parties agree that NMDOT has no duty or obligation to monitor the County's use of the Premises to determine the safe nature thereof, it being solely the County's responsibility to ensure that the County's use of the Premises is safe. Neither the exercise nor the failure by NMDOT to exercise any rights granted in this paragraph will alter the liability allocation provided by this License.
34. If the County shall, in the judgment of NMDOT, fail to perform properly its obligations under this Agreement, NMDOT may, at its option, itself perform such work as it deems necessary for the safe operation of its railroad, and in such event the County agrees to pay, the cost so incurred by NMDOT. Failure on the part of NMDOT to perform the obligations of the County shall not release the County from liability hereunder for loss or damage occasioned thereby.
35. During the construction and any subsequent maintenance performed on the Crossing, the County shall perform such work in a manner as to preclude damage to the property of NMDOT and the Railway and preclude interference with the operation of the railroad.
36. If, at any time during the term of this License, NMDOT shall desire the use of its rail corridor in such a manner as would, in NMDOT's reasonable opinion, be interfered with by the Crossing, the County shall make such changes in the Crossing as in the sole discretion of NMDOT may be necessary to avoid interference with the proposed use of NMDOT's rail corridor, including, without limitation, the relocation of the existing or the construction of a new Crossing, subject to sufficient appropriations being available to the County.
37. Upon termination of this License, the County shall, at its sole cost and expense:

- A. Remove the Crossing and all appurtenances thereto at the NMDOT's sole discretion;

Or in the case that NMDOT determines the Crossing shall remain in place after termination of this License:

- B. Report and restore any damage to the Premises arising from, growing out of, or connected with the County's use of the Premises;
- C. Remedy any unsafe conditions on the Premises created or aggravated by the County;
- D. Leave the Premises in the condition which existed as of the Effective Date of this License.

38. The County's on-site supervisor shall retain/maintain a fully-executed copy of this License at all times while on the Premises.

LIABILITY

39. The County shall be responsible for any and all liability arising the County's construction and maintenance of the public crossing to be installed under this Agreement to the extent allowed by the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 et seq., as amended.

40. No party shall be responsible for liability incurred as a result of any other party's acts or omissions in connection with the Agreement. Any liability incurred by either the County or NMDOT in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 et seq., as amended.

41. All personal property, including but not limited to, fixtures, equipment, or related materials upon the premise will be at the risk of the County only.

INSURANCE

42. The County and/or its contractor(s) and subcontractor(s) shall, at their sole cost and expense, procure and maintain during the construction of the Crossing and Project, the following insurance coverage:

-
- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability coverage with a combined single limit of a minimum of \$2,000,000 each occurrence and an aggregate limit of at least \$6,000,000.
1. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
 - a. Bodily Injury and Property Damage
 - b. Personal Injury and Advertising Injury
 - c. Fire legal liability
 - d. Products and completed operations
 2. This policy shall also contain the following endorsement, which shall be indicated on the certificate of insurance:
 - a. The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
 - b. The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
 - c. Any exclusion related to the explosion, collapse and underground hazards shall be removed.
 3. No other endorsements limiting coverage may be included in the policy.
- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
1. Bodily injury and property damage
 2. Any and all vehicles owned, used or hired
- C. Workers Compensation and Employers Liability Insurance This insurance shall include coverage for, but not limited to:
1. County's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 2. Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

- D. Railroad Protective Liability Insurance During the construction in connection with the Crossing and any subsequent maintenance performed by County or County's contractor within 25 feet of track, County or County's contractor shall obtain this insurance which shall name NMDOT, Railway, Railway's Maintenance and Operations Contractor, and BNSF as additional insured's, with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate.
1. The construction of the Crossing and Project shall be completed one (1) year of the Effective Date of this Agreement.
 2. If further maintenance of the Crossing is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
 - a. Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - b. Endorsed to include the Limited Seepage and Pollution Endorsement.
 - c. Endorsed to include the Evacuation Expense Coverage Endorsement.
 3. No other endorsements restricting coverage may be added.
 4. The original policy must be provided to the NMDOT prior to performing any work or services under this Agreement.
- E. Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.
43. The County agrees to waive its right of recovery against NMDOT for all claims and suits against NMDOT for any acts, errors or omissions caused by a third party who causes damage to any County property or improvement who is not under the custody and control of NMDOT.
44. The County's insurance policies, through policy endorsement, must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by NMDOT. The certificate of insurance must reflect that the above wording is included in evidenced policies.
45. All policy(ies) required above (excluding Workers Compensation and, if applicable, Rail Protective) shall include a severability of interest endorsement and shall name

NMDOT, Railway, Maintenance and Operations Contractor, and BNSF as an additional insured(s) with respect to work performed under this agreement.

A. Severability of interest and naming NMDOT, the Railway, Maintenance and Operations Contractor, and BNSF, as additional insured shall be indicated on the certificate of insurance.

46. Prior to commencing the work, County shall furnish, to NMDOT, an acceptable certificate of insurance which shall include an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments.
47. The policy shall contain a provision that obligates the insurance company(ies) issuing such policy (ies) to notify NMDOT, in writing, at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance.
48. In the event of a claim or lawsuit involving NMDOT arising out of this agreement, County will make available any required policy covering such claim or lawsuit.
49. Any insurance policy shall be written by a reputable insurance company acceptable to NMDOT or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
50. The County represents that this License has been thoroughly reviewed by the County's insurance agent(s)/broker(s), who have been instructed by the County to procure the insurance coverage required by this Agreement.
51. Not more frequently than once every five (5) years, NMDOT may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
52. If any portion of the operation is to be subcontracted by the County, the County shall require that the subcontractor shall provide and maintain insurance coverage as set forth herein, naming NMDOT and the Railway as an additional insured and shall require that the subcontractor shall release, defend, and indemnify NMDOT and the Railway.
53. Failure to provide evidence, as required by this section, shall entitle, but not require, NMDOT to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of the County's obligations hereunder.
54. The County is allowed to self-insure for the liability that may arise from the performance of this Agreement only for the County's construction and maintenance

responsibilities or activities, to be performed by County employees. Under no circumstances shall the County be allowed to self-insure for the Railroad Protective Liability required by Paragraph 42.D. of this Agreement.

55. Damages recoverable by NMDOT shall not be limited by the amount of the required insurance coverage.

For purposes of this section, NMDOT shall mean "New Mexico Department of Transportation" and the subsidiaries, agents, successors, assigns and affiliates of each.

ENVIRONMENTAL

56. The County shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, including but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation act, CERCLA (collectively referred to as the "Environmental Laws").
57. The County shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by applicable Environmental Laws on the Premises. The County shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
58. The County shall give NMDOT immediate notice to NMDOT's Risk Management Bureau and NMDOT Rail Bureau of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to the County's use of the Premises.
59. The County shall use the best efforts to promptly respond to any release on or from the Premises.
60. The County shall also give NMDOT immediate notice of all measures undertaken on behalf of the County to investigate, remediate, respond to or otherwise cure such release or violation.
61. The County shall promptly report to NMDOT in writing any conditions or activities upon the Premises known to the County which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or damage to property arising out of such conditions or activities, consistent with the County's responsibilities under this Agreement; provided however, that the County's reporting to NMDOT shall not relieve the County of any obligation whatsoever imposed on it by this License.

62. The County shall promptly respond to NMDOT's request for information regarding said conditions or activities.
63. For all bores greater than 26-inch diameter and at a depth of less than 10.0 feet below base of rail, a soil investigation will need to be performed by the County and reviewed by NMDOT prior to construction. This study is to determine if any environmental contamination is present near the location of the bore. NMDOT may select a new location for the County's use, or may require the County to furnish for NMDOT's review and approval, in its sole discretion a remedial plan to deal with the granular material. Once NMDOT has approved any such remedial plan in writing, the County shall, at its sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.

ALTERATIONS

64. The County may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without NMDOT's prior written consent.

NO WARRANTIES

65. NMDOT's duties and warranties are limited to those expressly stated in this License and shall not include any implied duties or implied warranties, now or in the future. No representations or warranties have been made by NMDOT other than those contained in this License. .

QUIET ENJOYMENT

66. NMDOT does not warrant its title to the property, nor undertake to defend the County in the peaceable possession of use thereof. No covenant of quiet enjoyment is made.

DEFAULT

67. If default shall be made in any of the covenants or agreements of the County contained in this document, or in any assignment or transfer of this License by operation of law, NMDOT, may, at its option, terminate this License by serving five (5) business days' notice in writing upon the County.
68. Any waiver by NMDOT of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect NMDOT's ability to enforce any Section of this License. The remedy set forth in this Section shall be in addition to, and not in limitation of, any other remedies that NMDOT may have at law or in equity.

LIENS & CHARGES

69. The County shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by the County on Premises. NMDOT is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however that failure of NMDOT to take any such action shall no relieve the County of any obligation or liability under this Section or any other Section of this License. The County shall pay, if applicable, when due, any taxes, assessments or other charges (collectively, "Taxes")_ levied or assessed upon the improvements by any governmental or quasi-governmental body or any taxes levied or assessed against NMDOT or the Premises that are attributable to the improvements.

TERMINATION

70. This License may be terminated by either party at any time, by serving thirty (30) calendar days written notice of termination to the other party. In the event of termination, the Crossing will be removed and Premises will be restored to its condition as of the Effective Date, at the County's sole cost and expense. If the County fails to surrender to NMDOT the Premises, upon any termination of this License, all liabilities and obligations of the County hereunder shall continue in effect until the Premises are surrendered.

ASSIGNMENT

71. Neither the County, nor the heirs, legal representatives, successor, nor assigns of the County, nor any subsequent assignee, shall assign or transfer this License or any interest herein, without the prior written consent and approval of NMDOT, which may be withheld in NMDOT's sole discretion.

NOTICES

72. Any notices required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) calendar days advance written notice of such change in address.

If to NMDOT: Rail Manager, SB-4 Second Floor New Mexico Department of Transportation PO Box 1149 Santa Fe, NM 87504-1149:

If to Licensee: Valencia County _____

SURVIVAL

73. Neither termination nor expiration will release either party from any liability or obligation under this License, whether or indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or if later, the date when the Crossing and improvements are removed and the Premises are restored to its condition as of the Effective Date.

NO RECORDATION

74. It is understood and agreed that this License shall not be recorded with the County Clerk.

APPLICABLE LAW

75. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of New Mexico without regard to conflicts of law provisions.

SEVERABILITY

76. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.

INTERGRATION

77. This License is the full and complete agreement between NMDOT and the County with respect to all matters relating to the County's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to the County's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of the County.

MISCELLANEOUS

78. In the event that the County consists of two or more parties for purposes of effectuating this Agreement, all the covenants and agreements of the County herein contained shall be the joint and several covenants and agreements of such parties.

79. The parties agree that the insurance and liability provisions of this License are not intended to violate, and shall not be construed by the parties to violate, NMSA 1978, Section 56-7-1, as amended.

IN WITNESS WHEREOF, this License has been duly executed, in duplicate, by the parties hereto as of the day and year first above written.

NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT)

By: _____
(Secretary or Designee)

Printed Name: _____

Title: _____ Date: _____

THE COUNTY OF VALENCIA

By: _____

Printed Name: _____

Title: _____ Date: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY BY THE NEW MEXICO DEPARTMENT
OF TRANSPORTATION OFFICE OF GENERAL COUNSEL

DATE: _____, 20 _____

BY: _____

TITLE: _____

APPROVED AS TO LEGAL FORM, County Attorney, County of VALENCIA

BY: _____

TITLE: _____

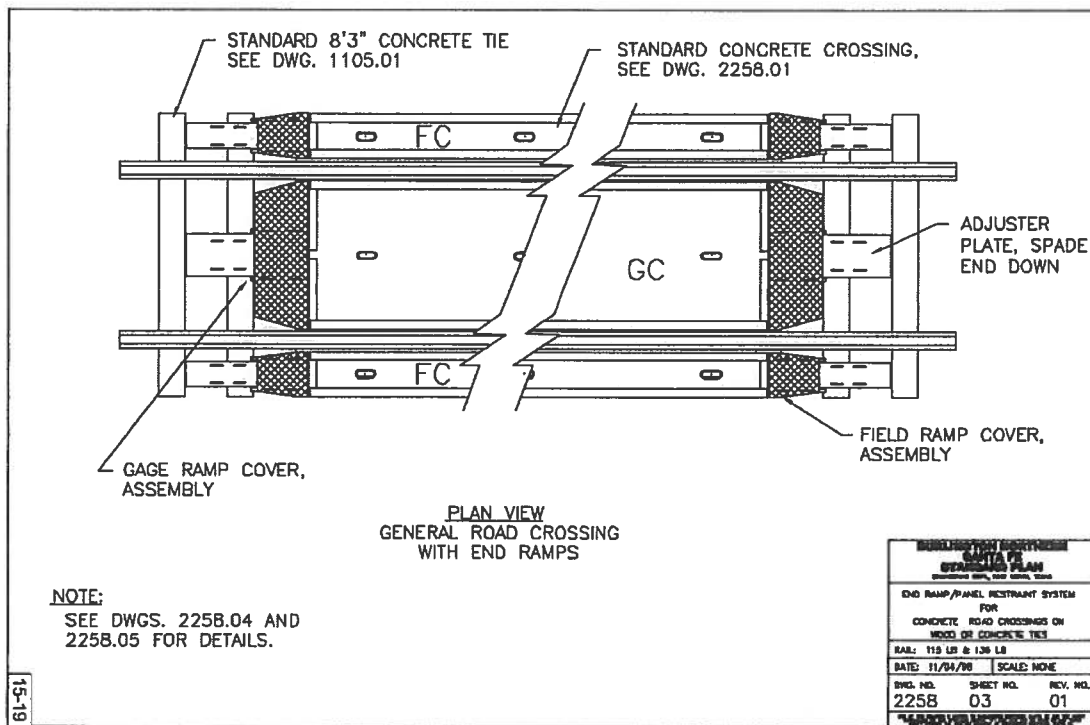
DATE: _____, 20 _____

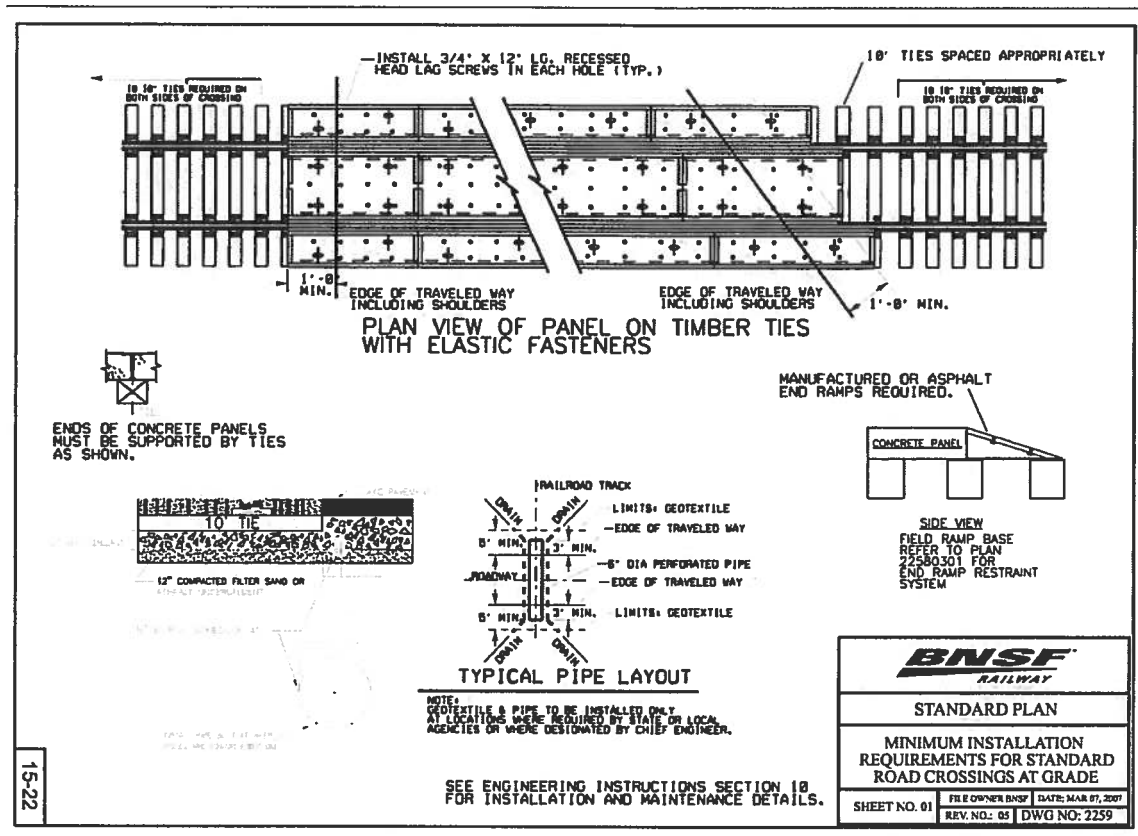
EXHIBIT 'A' (SITE DRAWING)

To be included

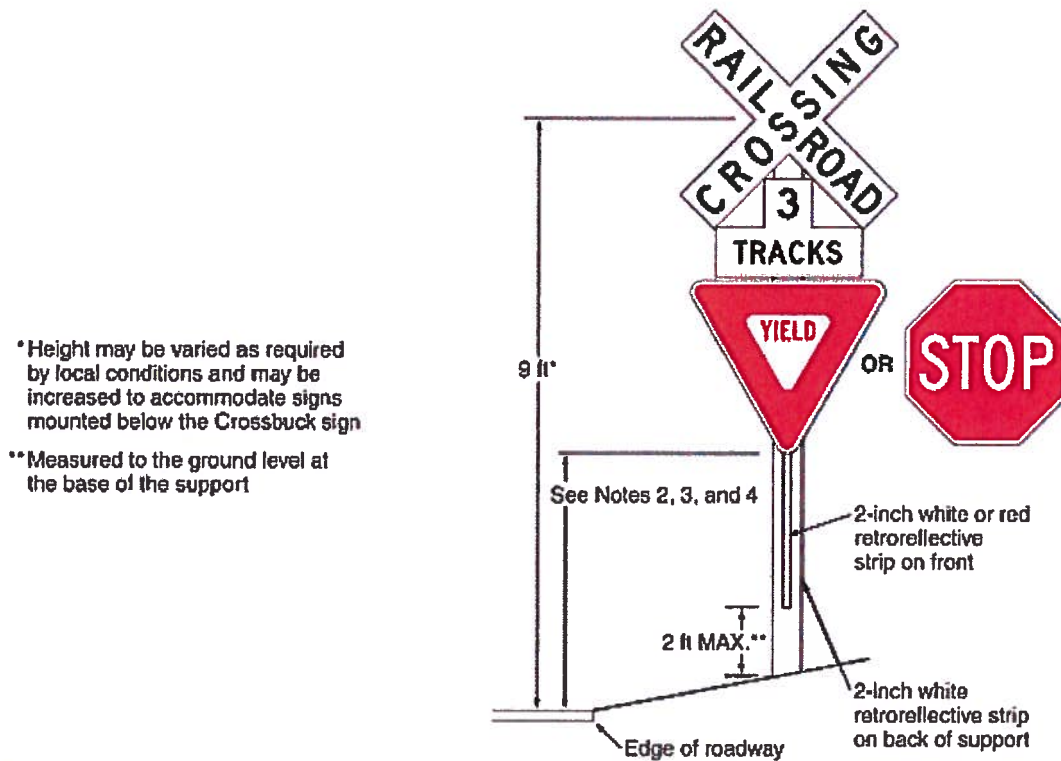
EXHIBIT 'B' (STANDARD DRAWINGS AND PLANS)

Concrete Crossing Standards





Crossbuck Assembly; Emergency Notification Sign Standards (to be placed under yield or stop sign).



Notes:

1. YIELD or STOP signs are used only at passive crossings. A STOP sign is used only if an engineering study determines that it is appropriate for that particular approach.
2. Mounting height shall be at least 4 feet for installations of YIELD or STOP signs on existing Crossbuck sign support
3. Mounting height shall be at least 7 feet for new installations in areas with pedestrian movements or parking.

NMRX RAILROAD

**TO REPORT
STALLED VEHICLE ON TRACK
OR OTHER EMERGENCY
CALL**

1-866-874-6679

YOUR LOCATION IS:

D.O.T. # 013745A

MP 866.66

**DOT Crossing Number is specific to the location of the crossing
The Mile Post (MP) is specific to the locations of the crossing**

Project Plans

To be included

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: Ruben Chavez
Individual Making Request: Gary Toler
Presentation at Meeting on: March 21, 2012
Date Submitted: January 30, 2012
Title of Request: Use of a Surname for a Private Easement

Action Requested of Commission:

Consideration to use the name TOLER Dr within Valencia County

Information Background and Rationale:

The homes affected by this request are currently addressed off of Meadow Lake Road but their location would be more accurately described if a name was assigned to route which actually fronts their home. The name Toler Dr has been proposed by a resident. After careful notification to residents of this request along with sufficient time allowing residents to respond, question or comment, none have objected up to this point in preparation for the March 21 agenda meeting.

Further rationale includes that:

- ❖ Road surface and turnaround – **has been inspected and approved** for use by the fire chief
- ❖ Road name is not confusing and is not a duplicate and according to resolution (00-22) **may be used** in the 911 system
- ❖ Naming this route would **contribute to safety** for residents, helping to provide for a faster emergency response time (Ord. 7-13-84)
- ❖ The Rural Addressor has notified all residents involved via certified letter per legal advice; **and no objections have been found.**

The rural addressor as authorized by the Board of Commissioners has carefully examined this request. In preparation for submission has found ALL APPLICABLE ORDINANCES AND RESOLUTIONS FOLLOWED, AND NO VALID REASONS FOR REJECTION TO BE FOUND.

What is the Financial Impact of this Request?

None

Staff Comments:

Legal:

Legal advised that the department notify each land owner by certified mail of the agenda item pursuant to Resolution 2000-22, Approved 7-13-1984

Finance:

No financial impact to county



Valencia County New Mexico

E911 Data Management/Rural Addressing



444 Luna Avenue, P.O Box 119

Los Lunas, New Mexico 87031

Office: 505-866-2051 Fax: 505-866-2002

Website: www.co.valencia.nm.us

Road Naming Petition

Proposed Access Route Names:

1.) TOLER DR. 2.) [Signature] 3.) [Signature]

Residents requesting route naming:

Primary Contact

Name: X GARY TOLER (Sign and Print) Phone: 505 865 4745 Cell 573 4745
Address: 413 meadow lake rd Los Lunas Road Name Preference: 1 2 3

Use last page for additional signatures:

Name: X C. Guy Alexander (Sign and Print) Phone: 505 489-6919
Address: 415 Meadow Lake Rd. Road Name Preference: 1 2 3

Name: X Other residents have been (Sign and Print) Phone: ()
Address: notified via Certified Letter Road Name Preference: 1 2 3

Auto/yrh - Rural Addressors Valencia County
Name: X (Sign and Print) Phone: ()
Address: Road Name Preference: 1 2 3

Name: X (Sign and Print) Phone: ()
Address: Road Name Preference: 1 2 3

Name: X (Sign and Print) Phone: ()
Address: Road Name Preference: 1 2 3

Name: X (Sign and Print) Phone: ()
Address: Road Name Preference: 1 2 3

Name: X _____ Phone: () _____
(Sign and Print)

Address: _____ Road Name Preference: 1 2 3

Name: X _____ Phone: () _____
(Sign and Print)

Address: _____ Road Name Preference: 1 2 3

Name: X _____ Phone: () _____
(Sign and Print)

Address: _____ Road Name Preference: 1 2 3

Name: X _____ Phone: () _____
(Sign and Print)

Address: _____ Road Name Preference: 1 2 3

Name: X _____ Phone: () _____
(Sign and Print)

Address: _____ Road Name Preference: 1 2 3

Is this the majority of residents? YES (NO) *Other residents HAVE Been notified 24*
Are any of these suggestions surnames*? YES NO If yes, which one(s)?: 1 2 3
with No Rejection Given.

*Surnames require presentation and approval before the county board of commissioners' before use

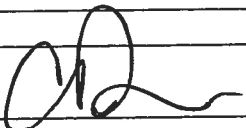
Office Use Only Below This Line

Road Name Selected: TOLER DR

Is this a surname? (YES) NO (If yes, county commissioner's signatures are required.)

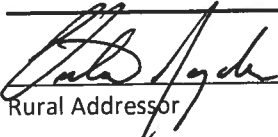
Is this ingress/egress acceptable for Valencia County emergency vehicle response? (YES) NO

If no, please specify reason and requirements for acceptance: _____

 Casey DAVIS
Fire Marshall

Commissioners (if required) _____

Chairperson _____ Vice-Chair _____ County Clerk _____

 _____ Date: 1/30/12
Rural Addressor



Valencia County New Mexico

E911 Data Management/Rural Addressing

444 Luna Avenue, P.O Box 119

Los Lunas, New Mexico 87031

Office: 505-866-2051 Fax: 505-866-2002

Website: www.co.valencia.nm.us



First Public Notice Sent

January 26, 2012

Dear Resident,

On March 8, 1993, Valencia County Board of County Commissioners adopted Resolution No. 93-10, authorizing the Rural Addressing Department to assign names to public and private access easements. The purpose was to create a Uniform Rural Addressing Program which would permit allow for the use of an enhanced Emergency response system. That system would quickly identify a caller's location to emergency responders by simply dialing 911 in the event of an emergency.

Valencia County through the Rural Addressing Department would be charged with maintaining the accuracy of this information and update it as needed to maintain or improve the quality and accuracy of the emergency response system. This may require Valencia County to assign a new address to a resident or to name access routes that will be used by emergency responders.

To help provide for the safety of residents in your area, a proposal has been put forth to officially name an access route to your property by being given the name TOLER DR. It is firmly believed by the Rural Addressing Department that naming an access routes can greatly improve the response time from emergency responders and help to provide the greatest level medical, fire and emergency care when needed.

Before a road name is approved for use, its road surface, right-of-way and turn around radius are reviewed for acceptability by the County Fire Department. The Rural Addressing Department verifies that the name is not a duplicate or confusing to emergency responders and if a surname is proposed it must be approved for use by County Commissioners. Currently this process is being initiated and is about to be submitted for review. This notice is to inform you of this process and to request any comments you may have. If no comment is made or no reasonable objection given within 7 days of the date of this notice said road name will be submitted for review. If a new name is approved all residents will be assigned a new address within 30 days and required to change the current physical address associated with their property location along this route. This address will be officially assigned by the Rural Addressing Department to meet E-911 addressing requirements.

We sincerely hope that a road name assignment will increase the level of accuracy and care when it comes to providing emergency services for Valencia county residents.

If you wish to comment on this matter or have questions please call me directly at 505-866-2051.

Sincerely,

Victor Gonzales
Rural Addressor/E911 Data Manager

Valencia County Board of Commissioners

Mary Anderson

Georgia Otero-Kirkham

Lawrence R. Romero

Ron Gentry

Donald E. Holliday



Valencia County New Mexico

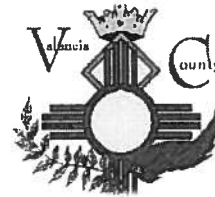
E911 Data Management/Rural Addressing

444 Luna Avenue, P.O Box 1119

Los Lunas, New Mexico 87031

Office: 505-866-2051 Fax: 505-866-2002

Website: www.co.valencia.nm.us



Second Public Notice Sent

February 20, 2012

Dear Resident,

Recently a resident requested to use the surname TOLER DR to identify an access route which fronts your property recognized as Mesa Estates Block 8 Lot 5D in Valencia County. Currently to request the use of a surname or first name for a road requires presentation before the board of county commissioners and requires unanimous approval by them. On March 21, 2012 at 9:30 am the County Board of Commissioner will meet at 444 Luna Avenue to consider this request. You are invited to attend and offer you comments or submit your comments in writing to the Rural Addressing Department.

Please be well aware that if this road name is approved you WILL BE REQUIRED YOU TO CHANGE YOUR PHYSICAL ADDRESS to one that bears the new road name. This address will be officially assigned to you by the Rural Addressing department.

It is believed that assigning a name to the easement that fronts your property will most importantly provide quicker response time by county emergency services and more easily identify your location to postal delivery services and others who look for your physical address to find your location quickly.

If you have any questions you may contact me at 505-866-2051.

This matter will be presented for consideration and comment at the following location:

County Commission Business Meeting
444 Luna Avenue, Los Lunas, NM
March 21, 2012
9:30am

Or you may submit your comments in writing:

Attn: Victor Gonzales
Rural Addressing Department
PO Box 1119
Los Lunas, NM 87031

Sincerely,

A handwritten signature in black ink that reads "Victor Gonzales".
Victor Gonzales
Rural Addressor

Valencia County Board of Commissioners

Mary Anderson

Georgia Otero-Kirkham

Lawrence R. Romero

Ron Gentry

Donald E. Holliday

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR UNIFORM RURAL ADDRESSING IN THE UNINCORPORATED AREAS OF THE COUNTY OF VALENCIA, NEW MEXICO.

Be it ordained by the Board of County Commissioners of Valencia County, State of New Mexico:

SECTION 1. SHORT TITLE AND LEGISLATIVE INTENT.

A. This Ordinance shall be known and may be cited as the Valencia County Uniform Rural Addressing Ordinance.

B. It is the intent of the County Commission that enactment of this Ordinance will establish an address numbering system that will:

1. assist in providing expeditious emergency services to inhabitants of the county;
2. meet requirements of public utilities, county services and the United States Postal Service;
3. prescribe standardized numbering and identification requirements for houses and other buildings;
4. prescribe penalties for violation of the Ordinance.

SECTION 2. JURISDICTION

This Ordinance shall apply to all lands within the boundaries of the County except those lands held in ownership by the Federal Government, the State of New Mexico, Indian Tribes, or incorporated municipalities.

SECTION 3. INTERPRETATION.

The provisions of this Ordinance are held to be minimum requirements to carry out the intent of the Ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

SECTION 4. DEFINITIONS.

For the purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein. "Shall" is always mandatory and not merely directory; the masculine includes the feminine.

A. Building - a structure having a roof supported by columns or walls for the shelter, support, or enclosures of persons, animals,

or personal property, but not including any recreational vehicle or travel trailer.

B. House - a dwelling unit designed for persons to live in.

C. Lot - a parcel of five acres or less in land area.

SECTION 5. GENERAL PROVISIONS

A. HOUSE NUMBERING REQUIRED. All lots buildings and houses in the unincorporated portion of Valencia County shall be numbered in accordance with the Rural Addressing Plan approved by the Valencia County Commissioners.

B. LOT NUMBERS AVAILABLE AT COUNTY CLERK'S OFFICE. The Valencia County Clerk's office shall keep maps showing the number of each lot, building or house in the unincorporated area of the County. Such maps shall be available for inspection by any interested person.

C. NUMBERS ON BUILDING. The owner and occupant of each house and building in the unincorporated portion of Valencia County shall identify the house and building with numbers at least three (3) inches high. The identifying numbers shall be placed upon the property in a location visible from the road (1) which the house or building faces or (2) which provides access to the house or building.

SECTION 6. PENALTY CLAUSE.

Any person, firm or corporation failing to comply with the above provisions is in violation of this Ordinance and shall be subject to a fine of five dollars (\$5.00) for each day that such violation continues.

SECTION 7. SEVERABILITY CLAUSE.

The provisions of this Ordinance shall be deemed to be severable, and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 8. REPEALING CLAUSE.

All other Valencia County Commission ordinances relating to address numbering systems or address designation methods and which are in conflict with the above provisions are hereby repealed

SECTION 9. EFFECTIVE DATE

This Ordinance shall take effect on the ____ day of _____, 1984.

APPROVED. ADOPTED AND SIGNED this 13th day of July, 1984.

Albert H. Blum
COUNTY COMMISSION CHAIRMAN

Joe D. Martin
COUNTY COMMISSION VICE-CHAIRMAN

Mark Blum
COUNTY COMMISSION MEMBER

ATTEST:

Barbara M. Seattle
COUNTY MANAGER

Moises Sree
COUNTY CLERK

RESOLUTION NO. 00-22

WHEREAS the Valencia County Commission by resolution in the mid 1990's directed the Planning and Zoning Office, through its Rural Addressing Department to name all new roads within the unincorporated areas of Valencia County with Hispanic or Native American words without using first names or surnames.

WHEREAS that the Rural Addresser since the approval of such Resolution, and in compliance with this Resolution over the past decade, has been limited in his ability to continue in the naming of both public and private roads to the aforesaid road names due to lack of available names.

WHEREAS the continuation of such limitations on the naming of new roads has created a severe lack of choices of names for such roads.

WHEREAS the new names have created problems with both residents and Sheriffs' dispatchers in notifying law enforcement and rescue personnel responding to requests for assistance through difficulty in pronunciation of the roads and the spelling of the roads names which is affecting the health, safety and welfare of county residents.

NOW, THEREFORE, BE IT RESOLVED, by the Valencia County Board of Commissioners:

1. That the Rural Addresser shall use his/her discretion in the naming of new private or public roads without using first names or surnames.
2. That any first name or surname request must be presented to the entire Board of County Commissioners with unanimous commission approval.

Passed, Approved and adopted this 1st day of May, 2000.

VALENCIA COUNTY BOARD OF COMMISSIONERS

Alicia Aguilar, Chair

S.T. Frank Pando, Commissioner

Eloy Gerard Giron, Commissioner

Aurelio Padilla, Vice-Chair

Helen Baca, Commissioner

ATTEST:

Kandy Cordoba, County Clerk

VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 93-10

WHEREAS, Valencia County has implemented a Rural Addressing Program for the health, safety and welfare of its residents; and

WHEREAS, the Rural Addressing Program is critical to the implementation and daily operation of the City/County Enhanced 9-1-1 System; and

WHEREAS, Valencia County, through its subordinate office, the Rural Addressing Department, has authorized them to designate road and street names through the use of numbers or generic place names; and

WHEREAS, Valencia County uses the "mile-marker" system for assigning address numbers for homes, businesses and other structures; and

WHEREAS, duplication of road and/or street names cannot be permitted in order for the Enhanced 9-1-1 program to be properly implemented; and

WHEREAS, the use of surnames as county roads and/or street names has existed in some areas of Valencia County; and

WHEREAS, to limit controversy and disputes over the use of competing local surnames as official county roads and/or streets under the Rural Addressing Program.

NOW, BE IT HEREBY RESOLVED, that it shall be the policy of Valencia County that the Rural Addressing Department will use numbers or generic place names and no surnames, unless as defined below, for local county roads, streets and/or private roads, and that duplication of the same may not exist.

BE IT FURTHER RESOLVED, that it shall be the policy of Valencia County to use the "mile-marker" system in issuing addressing numbers to homes, business and other structures within the County.

BE IT ALSO FURTHER RESOLVED, that upon request to the Rural Addressing Department, and upon unanimous consent of the Board of County Commissioners, a particular county road, street and/or private road may be designated by a surname, as long as such designation is not duplicative of an existing road name or confusing to the public.

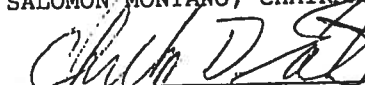
BE IT ALSO FURTHER RESOLVED, that road names now existing as surnames shall be "grandfathered" but henceforth shall not be duplicated.

PASSED, APPROVED AND ADOPTED this 8th day of March, 1993.

VALENCIA COUNTY BOARD OF COMMISSIONERS


SALOMON MONTANO, CHAIRMAN

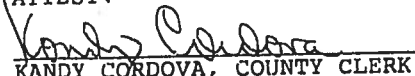

FRANK A. GURULE, VICE-CHAIRMAN


CHARLES D. EATON, MEMBER


RICHIE J. SMRT, MEMBER


LINDA WILKINSON, MEMBER

ATTEST:


RANDY CORDOVA, COUNTY CLERK

TOLER DR

MEADOWLAKE RD

LANZA CT

Valencia County New Mexico
Rural Addressing/
E-911 Data Management



Road Name Assignment
TOLER DR

Date:
02/08/12

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VALENCIA COUNTY

Board of County Commissioners

Agenda Request Form

Department Head: Ruben Chavez

Individual Making Request: Jose Campos

Presentation at Meeting on: March 21, 2012

Date Submitted: March 15, 2012

Title of Request: Amendment to Area Agency on Aging Grant Agreement

Action Requested of Commission:

Consideration of an amendment to the Grant Agreement for the purpose of increasing the funding contribution by AAA to the Older American Program: Contract # 2011-12 60028

Information Background and Rationale:

The Older American Program applied for and was awarded a Grant Agreement for the amount of \$67,709 to provide food. Because of the increase of meals served at centers the agency has agreed to increase their contribution amount to an amount of \$81,735.

What is the Financial Impact of this Request?

There are no matching funds required by the County. These addition funds will assist in meeting our rising cost in providing meals to seniors.

Staff Comments:

Legal:

Approved. A.N.

Finance:

The agreement has a positive impact on our Budget. CC

**NORTH CENTRAL NEW MEXICO
ECONOMIC DEVELOPMENT DISTRICT
NON-METRO AREA AGENCY ON AGING
NUTRITION SERVICE INCENTIVE PROGRAM (NSIP) AGREEMENT**

AMENDMENT NO. 1

This Amendment is made and entered into this 1st day of March, 2012, by and between the North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging hereinafter referred to as the "Agency" and Valencia County, hereinafter referred to as the "Contractor".

1. Purpose of Amendment. The purpose of the Amendment is to:
 - A. Revise the contract amount from \$67,709 to \$81,735 thereby increasing the total dollar amount by \$14,026.
2. Changes to Contract. The following changes are amendments to the contract:
 - A. Paragraph II. A. Compensation is amended to read: The total amount payable to the Contractor under this Agreement shall not exceed \$81,735 for eligible meals served during the period July 1, 2011 through June 30, 2012, regardless of funding sources, to eligible participants and their spouse.
3. All other clauses in the original Agreement will remain unchanged and together with this Agreement constitute the entire Agreement between the Contractor and Agency.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates listed below.

Valencia County
Legal Name of Vendor/Contractor

Signature

Printed/Typed Name of Signatory

Date

NCNMEDD Non-Metro AAA
Name of Area Agency on Aging



Signature

Tim Armer, Executive Director
Printed/Typed Name of Signatory

March 1, 2012
Date

GRANTEE: Valencia County		APPROVED BUDGET FOR THE PERIOD		Type of Grant or Action		NGA	
ADDRESS:		FROM: 07/01/2011		New/Cont:		DATE	
PHONE:		TO: 06/30/2012		Revision: X		3.1.12	
Indirect Cost % of \$		Fund: 210		CFDA # 93.053			
Title of Project:		NSIP					
DESCRIPTION		FEDERAL	STATE	LOCAL CASH	LOCAL IN-KIND	PROJECT INCOME	TOTAL
Personnel Services		\$0.00	\$0.00				\$0.00
Fringe Benefits		0.00	0.00				0.00
Travel		0.00	0.00				0.00
Maintenance & Repair		0.00	0.00				0.00
Supplies (Raw Food)		\$81,735.00	0.00				\$81,735.00
Contractual Services		0.00	0.00				0.00
Other Operating Costs		0.00	0.00				0.00
Capital Outlay		0.00	0.00				0.00
Subtotal		\$81,735.00	\$0.00				\$81,735.00
PERCENT OF TOTAL COST		100%	0%	0%	0%	0%	100%
COMPUTATION OF GRANT				8. Federal/State Shares will be Comprised of:			
1. Estimated Total Cost		\$81,735.00		a. Federal/State grant			
2. LESS Anticipated Project Income		\$0.00		unearned in previous		FY Federal:	0.00
3. Estimated Net Cost		\$81,735.00		project year(s)		FY State:	0.00
4. Non-federal and Non-state Share of Net Cost		\$0.00		b. Carry Over		0.00	
5. Project Income (Used as Match)		\$0.00				0.00	
6. Federal Share of Net Cost		\$81,735.00		c. New Obligational			
7. State Share of Net Cost		\$0.00		Authority Herein		FY Federal:	\$14,026.00
				Awarded			
<p>X Unless revised, the amount of lines 6 and 7 (Computation of Grant) will constitute a ceiling for federal and/or state participation in the approved cost.</p> <p>X The federal and/or state share of the project cost is earned only when the cost is accrued and the non-federal and/or non-state share of the cost has been contributed. Receipt of federal and/or state funds (either through advance or reimbursement) does not constitute earning of these funds.</p> <p>X If the actual net cost is less than the amount on line 3 (Computation of Grant) the non-federal and/or non-state share, the federal share, and the state share will meet the percentages indicated on Page 1 of the NGA.</p> <p>X As shown in the Computation of Grant (assuming satisfactory progress, adequate justification and the availability of funds), the federal and state shares shall meet the amounts shown on lines 6 and 7 of the estimated net project cost shown on line 3.</p> <p>X Funds herein awarded will remain available during the length of the project period, however, state and/or federal funds are dependent upon availability.</p> <p>X In accepting the grant awarded for support of the expanded portion of an existing program, the grantee agrees to maintain expenditures for the existing program in the amount of Line 6 during the approved project period.</p>							
<p>All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel or other federal and/or state officials authorized to examine any or all financial and programmatic records. Such records shall be retained in accordance with the following:</p> <ol style="list-style-type: none"> 1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency. 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency. 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants. 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency. 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted. 8. Inventory of project equipment will be maintained and submitted as requested. 9. Project records will be preserved and kept available to federal and state auditors at the primary offices of the Grantee. 							
Signature of Area Agency on Aging Authorizing Official:				We, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award.			
Tim Armer, Executive Director				Date:			
3/1/12				Date:			
Signature:				Date:			

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